

**ORDINANCE NO. 2016-24**

**AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF ROSENBERG, TEXAS, BY AMENDING SECTIONS 6-396 AND 6-397 OF ARTICLE XV ENTITLED "BUILDING AND SETBACK LINES" OF CHAPTER 6 THEREOF; PROVIDING FOR CORRECTIONS; AND, BY AMENDING SECTION 25-68 OF DIVISION 2 OF ARTICLE III ENTITLED "SPECIFIC REQUIREMENTS" OF CHAPTER 25 THEREOF; PROVIDING REVISED SINGLE-FAMILY RESIDENTIAL BUILDING AND SETBACK LINES; PROVIDING FOR THE ADDITION OF REGULATIONS REGARDING CARPORT SETBACKS; PROVIDING A PENALTY IN AN AMOUNT AS PROVIDED IN SECTION 1-13 OF THIS CODE FOR VIOLATION OF ANY PROVISION HEREOF; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES INCONSISTENT OR IN CONFLICT HERewith; AND PROVIDING FOR SEVERABILITY.**

**BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ROSENBERG:**

Section 1. The Code of Ordinances of the City of Rosenberg, Texas, is hereby amended by amending Sections 6-396 and 6-397 of Article XV of Chapter 6 thereof to provide as follows:

**"CHAPTER 6 – BUILDINGS AND BUILDING REGULATIONS  
ARTICLE XV. - BUILDING AND SETBACK LINES**

**Sec. 6-396. - Required.**

No building permit shall be issued for the construction, exterior alteration, enlargement, or location of any building or structure which does not conform to the building and setback lines established in Chapter 25 of the Code.

**Sec. 6-397. - Application.**

The building and setback lines established herein shall apply to the following:

- (1) Unplatted property;
- (2) Property platted without building or setback lines;
- (3) Property platted which did not conform to the building or setback lines established in the subdivision regulations existing at the time of platting.

\* \* \*

Section 2. The Code of Ordinances of the City of Rosenberg, Texas, is hereby amended by amending Section 25-68 of Division 2 of Article III of Chapter 25 thereof to provide as follows:

**“CHAPTER 25 - SUBDIVISIONS  
ARTICLE III. - SUBDIVISION DESIGN REQUIREMENTS (STANDARDS)  
DIVISION 2. – SPECIFIC REQUIREMENTS**

\* \* \*

**Sec. 25-68. - Building lines—Single-family lots.**

Building lines or setback lines shall be established for all single-family residential lots and so indicated on all subdivision plats as stipulated below:

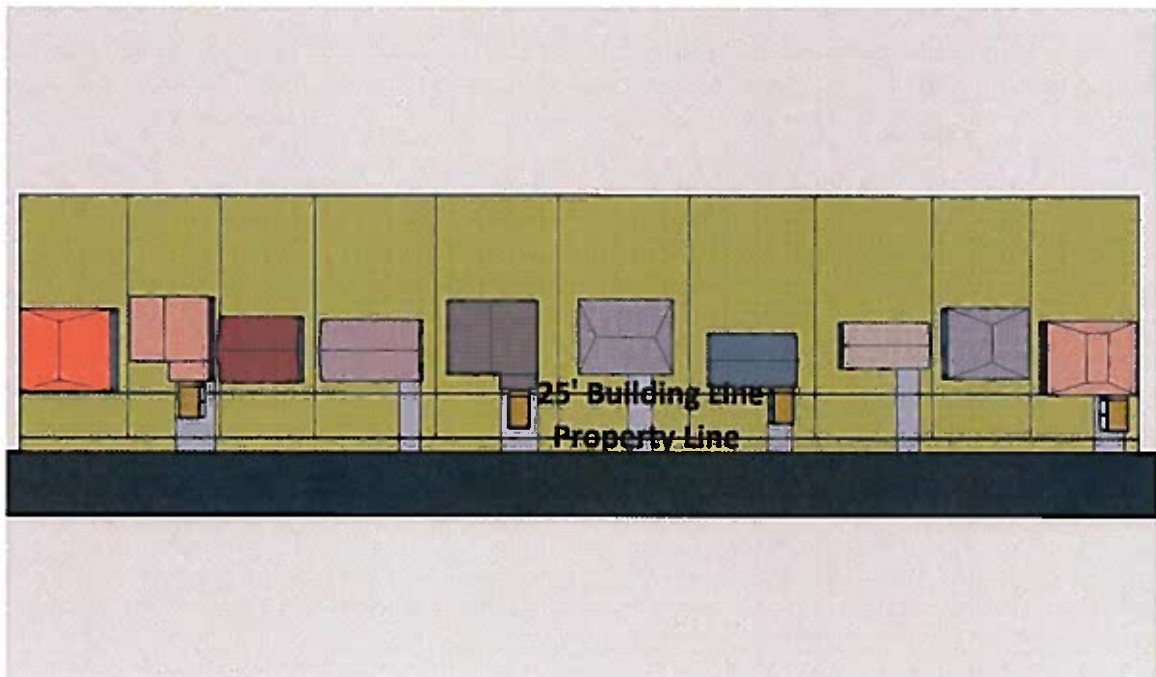
- (1) Corner lots equal to or greater than fifty (50) feet in width:
  - a. Front Setback: Twenty-Five (25) feet. b. Side Setback:
    - i. Minor Streets: Fifteen (15) feet.
    - ii. Collector Streets: Twenty (20) feet.
    - iii. Major Thoroughfares: Twenty-Five (25) feet.
- (2) Corner lots less than fifty (50) feet in width:
  - a. Front Setback: Twenty-Five (25) feet.
  - b. Side Setback:
    - i. If the required right-of-way for the street does exist according to the City of Rosenberg's Thoroughfare Plan, then five (5) feet.
    - ii. If the required right-of-way for the street does not exist, then five (5) feet plus the required right-of-way according to the City of Rosenberg's Thoroughfare Plan.
  - c. Subsection (2) of this section does not apply to a lot within a townhouse subdivision as defined by this chapter.
- (3) Interior lots.
  - a. Front Setback: Twenty-Five (25) feet.
  - b. Side Setback: Five (5) feet.
- (4) Carports, Car Covers, Breezeways, and Porte-Cocheres.
  - a. Location.
    - i. Generally. Structures may be located outside of the building envelope (the area on a lot that is in compliance with the setback requirements of Subsections (1), (2) and (3) above) including but not limited to,

structures, building height, decks, roof overhangs, porches, and driveways, as follows:

1. Setbacks:

- a. Carports must meet all residential setbacks as stated in Section 25-68, Subsections (1-3).
- b. Exception: When two (2) or more existing carports on the same street or block as the subject property (see Figure 1 below), or five (5) or more in the same subdivision, encroach on the setbacks required in Subsections (1), (2), and (3) above, the newly constructed carport may have a minimum setback of five (5) feet from the street right-of-way provided it complies with other requirements in this Subsection (4).

Figure 1



2. They shall not encroach upon or extend over a sidewalk;
3. Drainage from the structure shall not impact adjacent properties, public sidewalks, or a public right-of-way;
4. The canopy or roof structure (including overhang) shall not extend past the support posts by more than two feet and in no case shall be closer than three (3) feet to the property line;
5. Carports and car covers (including trellises, arbors, and similar structures used for this purpose) shall be open on all sides unless backing and/or siding to the principal building;

6. Carports and car covers shall not encroach into easements unless written permission is granted from the owner or lessee of the easement and proof of such permission is provided to the City prior to the issuance of permits or clearances for such structures;
  7. The roof, in terms of materials or colors and pitch, is constructed to appear as part of the original construction of the principal dwelling;
  8. The materials or colors, including supporting posts and roof, are compatible with the principal dwelling;
  9. Metal carports shall be painted to match the primary structure and be maintained in good repair; and
  10. On corner lots, garages and carports are only permitted where a driveway length of twenty (20) feet can be provided to satisfy the off-street parking requirements.
- b. Design. Structures must:
- i. Have no less than fifty (50) percent open space on all sides, except when abutting the principal building and applied to trellises, arbors, and similar structures;
  - ii. Be integrated with the principal building design when visible to the public right-of-way. This includes:
    1. Structural supporting elements;
    2. Roof materials, pitch, and design; and
    3. Allows an administrative exception if the roof is a trellis, arbor, or similar open-roof type structure.
  - iii. Not exceed sixteen (16) feet in height.
- c. Code Compliance Required. Structures must:
- i. Be firmly anchored in compliance with all building and fire codes; and
  - ii. Comply with all building, life safety, and fire code requirements when attached to the principal building or another accessory building.
- d. Abrogation and Greater Restrictions.
- i. The City has no duty to search for the existence of private restrictions or to administer or enforce any private restriction.
  - ii. It is not the intent of Section 25-68 (4) to interfere with, abrogate, or annul any private easement, covenant, deed restriction, or other agreement between private parties.
  - iii. When the provisions Section 25-68 (4) impose a greater restriction than imposed by such private agreements, the provisions of this Section shall control.

- iv. When a private agreement imposes a greater restriction than that imposed by this Section, the private agreement shall control.

**(5) Special Exception.**

- a. Upon written request of the property owner, the Planning Commission may grant a special exception to the provisions of this Section.
- b. The purpose of a special exception shall be to authorize a modification of standards applicable to development within the city, which is consistent with the overall intent of the Code, but that requires additional review to determine whether the development with the modifications is compatible with adjoining properties and the character of the neighborhood in which the development is proposed.
- c. In granting a special exception under this article, the Planning Commission may impose such criteria and conditions as necessary to protect adjacent property owners.
- d. Application requirements. An application for a special exception shall be accompanied by the following:
  - i. Completed application, as provided by the planning department.
  - ii. A statement detailing the specifics of the site and any other information deemed appropriate by the planning director.
  - iii. A site plan of the subject property.
- e. Application processing.
  - i. The planning commission shall consider an application for a special exception. The Commission's decision may be appealed to the city council.
  - ii. The planning department shall cause notice to be sent by regular mail before the tenth day before the date in which the special exception is considered by the Planning Commission, to each owner of real property located within two hundred (200) feet of the exterior boundary of the property in question.
  - iii. The planning department shall cause notice to be published in a newspaper of general circulation in the city before the tenth day before the date in which the special exception is considered by the Planning Commission.
  - iv. The Planning Commission shall hold a public hearing and receive public comments regarding the special exception.

- (6) Previous Subdivisions.** Lots in subdivisions platted prior to the effective date of this ordinance shall not be required to meet the setback requirements in Subsections (1), (2) and (3) if the applicant can present information, and City staff can verify, that the proposed construction will have setbacks greater than or equal to the average setback on the same block or street as the subject property.

\*\*\*

**Section 3.** Any person who violates any provision of this Ordinance shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined in an amount as provided in Section 1-13 of this Code. Each day of violation shall constitute a separate offense.


**Section 4.** In the event any clause, phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstance shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of the City of Rosenberg, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, whether there be one or more parts.

**Section 5.** This Ordinance shall be cumulative of all provisions of ordinances of the City of Rosenberg, Texas, except where the provisions of the Ordinance are in direct conflict with the provisions of such ordinances, in which event the conflicting provisions of such ordinances are hereby repealed. Any and all previous versions of this Ordinance to the extent that they are in conflict herewith are repealed.

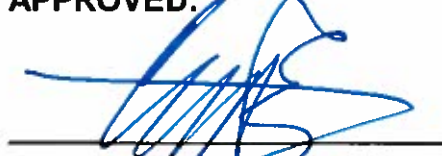
**Section 6.** This Ordinance shall become effective immediately upon its passage, approval and publication as provided by law.

**PASSED AND APPROVED** by a vote of 7 "ayes" in favor and 0 "noes" against on this first and final reading in full compliance with the provisions of Section 3.10 of the Charter of the City of Rosenberg on the 16<sup>th</sup> day of August 2016.

**ATTEST:**

  
\_\_\_\_\_  
Linda Cernosek, City Secretary

**APPROVED:**

  
\_\_\_\_\_  
Cynthia A. McConathy, Mayor

**APPROVED AS TO FORM:**



Cynthia Trevino, **City Attorney**

Denton Navarro Rocha Bernal Hyde & Zech, P.C.